

WAIVER OF SERVICE OF SUMMONS

TO: Scott W. Carlson, Heins Mills & Olson, P.L.C., 310 Clifton Avenue, Minneapolis, MN 55403

I, Thomas O. Kuhns, Attorney for Briggs & Stratton Corporation, acknowledge receipt of your request that I waive service of a summons in the action Phillips v. Sears, Roebuck & Co., et al., No. C 08-02671 SBA, filed in the United States District Court for the Northern District of California. I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that Briggs & Stratton Corporation, on whose behalf I am acting, be served with judicial process in the manner provided by Rule 4.

Briggs & Stratton Corporation will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against Briggs & Stratton Corporation if an answer or motion under Rule 12 is not served upon you within 60 days after June 11, 2008.

Dated: 6/16/08

By: 

Thomas O. Kuhns
KIRKLAND & ELLIS LLP
200 East Randolph Drive
Chicago, IL 60601

On behalf of:
Briggs & Stratton Corporation

Duty to Avoid Unnecessary Costs of Service of Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiffs' attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

Vincent J. Esades (Admitted Pro Hac Vice)

vesades@heinsmill.com

HEINS MILLS & OLSON, P.L.C.

310 Clifton Avenue

Minneapolis, MN 55403

Tel.: (612) 338-4605

Fax: (612) 338-4692

Joseph R. Saveri (State Bar No. 130064)

jsaveri@lchb.com

Michael Sobol (State Bar No. 194857)

msobol@lchb.com

Eric B. Fastiff (State Bar No. 182260)

efastiff@lchb.com

Jordan Elias (State Bar No. 228731)

jelias@lchb.com

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

Embarcadero Center West

275 Battery St., Suite 3000

San Francisco, CA 94111-3339

Tel.: (415) 956-1000

Fax: (415) 956-1008

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(OAKLAND DIVISION)

Carl Phillips, individually, and on behalf of all
others similarly situated,

Plaintiffs,

v.

Sears, Roebuck and Company, Deere &
Company, Tecumseh Products Company, Briggs
& Stratton Corporation, Kawasaki Motors Corp.
USA., MTD Products Inc, The Toro Company,
American Honda Motor Company, Inc.,
Electrolux Home Products, Inc., The Kohler
Company, Husqvarna Outdoor Products, Inc.
and Platinum Equity, LLC

Defendants.

Case No.: 4:08-cv-02671-SBA

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2008, I caused the forgoing document to be served via U.S. Mail to the following:

William H. Manning
ROBINS, KAPLAN, MILLER
& CIRESI L.L.P.
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402

Judy L. Cates
THE CATES LAW FIRM, L.L.C.
216 West Pointe Drive, Suite A
Swansea, IL 62226

Charles J. Swartwout
GUNDLACH, LEE, EGGMANN, BOYLE
& ROESSLER
5000 West Main Street, P.O. Box 23560
Belleville, IL 62223-0560

Craig C. Martin
JENNER & BLOCK
330 North Wabash Avenue
Chicago, IL 60611-7603

Robert H. Shultz, Jr.
HEYL, ROYSTER, VOEKLER
and ALLEN, P.C.
103 W. Vandalia Street, Suite 100
Edwardsville, IL 62025

David B. Johnson
SIDLEY AUSTIN BROWN
& WOOD LLP
Bank One Plaza
10 South Dearborn Street
Chicago, IL 60603

William A. Schmidt
GREENSFELDER, HEMKER
& GALE, P.C.
12 Wolf Creek Drive, Suite 100
Swansea, IL 62226
Scott M. Mendel
BELL, BOYD & LLYOD LLC
70 West Madison Street
Chicago, IL 60602

Ann Hatch
HERZOG CREBS LLP
5111 W. Main Street
Belleville, IL 62226

Sam Kalen
G. William Frick
VAN NESS FELDMAN
1050 Thomas Jefferson Street, N.W.
Seventh Floor
Washington, D.C. 20007

Michael Nester
DONOVAN, ROSE, NESTER
& JOLEY, P.C.
8 East Washington Street
Belleville, IL 62220-2190

Thomas O. Kuhns
KIRKLAND & ELLIS LLP
200 East Randolph Drive
Chicago, IL 60601

Richard T. Coyne
WEGMAN, HESSLER
& VANDERBURG
6055 Rockslide Woods Boulevard
Suite 200
Cleveland, OH 44131

1 Robert D. Owen
2 FULBRIGHT & JAWORSKI
3 666 Fifth Avenue
New York, NY 10103-3198

Donald J. Dahlmann
WALKER AND WILLIAMS P.C.
4343 West Main Street
Belleville, IL 62226

4 John E. Galvin
5 FOX GALVIN, LLC
6 One Memorial Drive, 12th Floor
St. Louis, MO 63102

Roger L. Longtin
DLA PIPER RUDNICK GRAY CARY
203 N. LaSalle Street
Chicago, Illinois 60601

7 Carl J. Pesce
8 Richard A. Mueller
9 THOMPSON COBURN, LLP
10 One US Bank Plaza, Suite 2700
St. Louis, MO 63101-1611

Eric N. Macey
NOVACK AND MACEY LLP
100 North Riverside Plaza
Chicago, IL 60606-1501

11 Kevin T. Hoerner
12 BECKER, PAULSON, HOERNER &
13 THOMPSON, P.C.
14 5111 West Main Street
15 Belleville, IL 62226

Kathleen N. Millican
SKIKOS, CRAWFORD, SKIKOS, JOSEPH
& MILLICAN
625 Market Street, 11th Floor
San Francisco, CA 94105

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17 Dated: July 28, 2008

s/ Vincent J. Esades